

## **REMARKS**

### **Allowed Claims**

The allowance of claims 3-11, 13-21, 23 and 25-31 is acknowledged with appreciation.

### **Allowable claims 33, 35-38**

The indication that claims 33 and 35-38 would be allowed if rewritten in independent form is acknowledged with appreciation. Each of claims 33 and 35 has been rewritten in independent form to include all the limitations of claim 32 on which each was directly dependent. Each of claims 36-38 is ultimately dependent on amended claim 35.

Accordingly, claims 33 and 35-38 as amended are believed to be in a proper form and condition for allowance and such action is respectfully requested.

### **Grammatical Errors**

Claims 13, 25 and 36 have also been amended to correct grammatical errors. These corrections do not change the scope of these claims.

### **§103 Rejection**

Each of claims 1 and 2 was rejected as being unpatentable over the newly cited and applied Reef patent in view of Fournier.

**Reef U.S. Patent 5,667,366**

Reef discloses a fuel pump module having a reservoir 16, a high pressure pump 14, and a jet pump 10 with a nozzle 46 having an inlet supplied with fuel through a return line 20 from the engine. As indicted in the Office Action, Reef does not disclose any restrictor plate at all.

**Fournier U.S. Patent 5,647,328**

Fournier discloses a fuel pump module 10 with an electric high pressure fuel pump 14 with an inlet 16 which communicates with a fuel tank 12, and an outlet 20 which supplies high pressure fuel to the engine through a by-pass pressure regulator 22. In operation, to control the output pressure of fuel to the engine, the regulator 22 discharges excess fuel through its outlet 28 into a reservoir canister 26. A bottom plate 30 of the reservoir has an orifice 90 therein which controls the rate at which fuel passes out through the bottom of the reservoir (Col 10, Lines 4-8). The orifice 90 is sized so that the reservoir tube 80 will be substantially completely filled by fuel discharged from the outlet of the pressure regulator during normal operation of the pump module (Col 10, Lines 8-23).

Contrary to the contention in the Office Action, Fournier does not have any jet pump, any high pressure pump inlet 16 communicating with the reservoir or any nozzle inlet communicating with the outlet 20 of the high pressure fuel pump. What the Office Action mistakenly labels as a nozzle is the outlet 28 for by-passed fuel of the pressure regulator 22, the inlet of which communicates with the outlet 20 of the high pressure pump.

**Claim 1 is Patentable**

Reconsideration and allowance of claim 1 is requested for the following reasons.

Contrary to the contention in the Office Action, the proposed combination of Reef and Fournier does not disclose, suggest or teach to skilled persons a fuel pump module having a jet pump supplying fuel to the reservoir with a nozzle having an outlet and an inlet in communication with the outlet of the high pressure fuel pump and at least one restrictor plate received between the outlet of the fuel pump and the inlet of the nozzle and having an orifice upstream of the inlet of the nozzle restricting the flow of fuel to the nozzle.

The proposed combination of Reef and Fournier does not disclose, suggest or teach this basic concept, any construction and arrangement thereof as defined by claim 1 or the significant practical advantages thereof. As acknowledged, Reef does not disclose any restrictor plate at all. As indicated above, Fournier does not disclose, suggest or teach any jet pump at all, any nozzle of any jet pump, any restrictor plate between the outlet of the fuel pump and the inlet of the nozzle, or any orifice in any restrictor plate upstream of the inlet of the nozzle and restricting the flow of fuel to the nozzle. Accordingly, even if the Reef or Fournier references were combined, they would not disclose, suggest or teach to skilled persons the subject matter as a whole defined by claim 1. Furthermore, for these reasons, there is no incentive, suggestion or teaching to combine these references. For these reasons, the Fournier reference must have been interpreted in view of and its combination with Reef proposed in view of the teachings of applicants' invention which use of hindsight is impermissible and expressly precluded in

applying the non-obviousness test of §103. Accordingly, for at least these reasons, claim 1 defines patentable subject matter under §103 over the proposed combination of the Reef and Fournier references and should be allowed.

### **Claim 2**

Claim 2 is dependent on claim 1 and hence defines patentable subject matter under §103 over the proposed combination of the Reef and Fournier references for at least the foregoing reasons.

### **Claim 32**

#### **The §102 rejection of Claims 32 & 39**

The prior allowance of claim 32 was withdrawn and claims 32 and 39 were each rejected under §102(b) as being anticipated by Fournier.

Amended independent claim 32 defines a fuel transfer arrangement having, among other things, a source having an outlet of pressurized fuel, a jet pump with a nozzle disposed in a portion of the fuel tank and having an inlet in communication with the outlet of the pressurized fuel source, and at least one restrictor plate having an orifice communicating with the outlet of the pressurized fuel source, disposed between the outlet of such source and the inlet of the nozzle and axially spaced upstream of the inlet of the nozzle.

As indicated above, Fournier neither discloses, teaches nor inherently has any of

1. a jet pump,
2. a nozzle of a jet pump,

3. an inlet of the jet pump nozzle communicating with the outlet of the source of the pressurized fuel,
4. a jet pump nozzle outlet through which fuel is discharged,
5. any restrictor plate having an orifice communicating with the outlet of the source of pressurized fuel,
6. any restrictor plate with an orifice disposed between the outlet of such source of pressurized fuel and the inlet of the nozzle, or
7. any restrictor plate with an orifice axially spaced upstream from the inlet of the jet pump nozzle.

Since Fournier does not disclose, teach or inherently have any of these elements, much less all of them, amended claim 2 is novel over and not anticipated by Fournier.

For at least these reasons, amended claim 32 also defines patentable subject matter under §103 over Fournier whether considered alone or in combination with Reef or the other cited references of record and should be allowed.

### **Claim 39**

Claim 39 is dependent on claim 32 and hence defines novel and patentable subject matter for at least the reasons for which claim 32 does so and should be allowed.

### Conclusion

The allowance of claims 3-11, 13-21, 23 and 25-31 is acknowledged with appreciation. For the foregoing reasons, the remaining pending claims 1, 2, 32, 33 and 35-39 are believed to define novel and patentable subject matter and to be in a proper form for allowance and such action is respectfully requested.

If after considering this Response the Examiner is of the view that any of the claims are not in a condition for allowance, a telephone interview is requested with applicants' undersigned attorney William Francis so that immediate consideration can be given to any amendments suggested by the Examiner or otherwise needed to place all the claims in a condition for allowance. The Examiner is asked to either schedule or initiate this interview by telephoning William Francis at 248-689-3500, Ext 153, who normally can be reached Monday through Friday between 9 a.m. and 5 p.m.

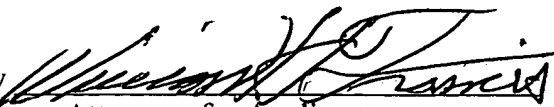
A check in the amount of \$400.00 is enclosed to cover the fee for the two additional independent claims. If as determined by the Patent Office the enclosed check is incorrect, it is hereby authorized and respectfully requested that any deficiency be charged to any excess credited to our Deposit Account No. 50-0852.

Respectfully submitted,

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WHF:sal

Enclosure

By 

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